



City of Seattle

Michael Patrick McGinn, Mayor

Civil Service Commission

Commission Chair Steven A. Jewell

Commissioner Ellis H. Casson

Commissioner Gregg H. Hirakawa



2009-2010 ANNUAL REPORT

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City of Seattle

CIVIL SERVICE COMMISSION (CSC)

2009 AND 2010 ANNUAL REPORT

The Seattle Civil Service Commission is pleased to present its 2009-2010 annual report*. This report provides an overview of the Commission's activities for the past two years and information on city-wide personnel activities related to the Commission's chartered responsibilities, which include hearing appeals related to the administration of the City's personnel system and submitting to the Mayor and Council recommendations concerning the personnel system as it deems appropriate.

Members of your 2009-2010 Commission:

- **Steven Jewell, Chair:** Steven Jewell is the employee elected Commissioner. Civil Service employees elected Commissioner Jewell to a three-year term in December of 2005. This term expired on December 31, 2008. In 2008 employees also elected Commissioner Jewell to a second term, which expires in 2011.
- **Ellis Casson:** Commissioner Casson is the Council appointee to the Commission. Commissioner Casson was first appointed by the City Council in September of 2001 to fulfill a term that expired in 2003. This was followed by an appointment that expired in 2006. In 2006 he was reappointed for a term that expires in December 2009. During his tenure he has served several times as the Commission Chair.
- **Gregg Hiramawa:** Commissioner Hiramawa is the mayoral appointee to the Commission. Mayor Greg Nickels appointed Gregg Hiramawa to the Commission in February of 2008. Commissioner Hiramawa's term expired in December 2010.

Commission Staff:

- Glenda J. Graham-Walton, Executive Director
- Teresa R. Jacobs, Administrative Staff Assistant

*At its April 2007 meeting the Commission voted to produce an annual report every other year. The next report will be produced in 2013 and reflect the Commission's work for the years 2011-2012.

Introduction

The purpose of Civil Service is to ensure that government has skilled and qualified employees. Civil Service provides and protects employment “rights” of government workers ensuring that government employees do not lose their jobs on the grounds of political, religious or other affiliation and for other non-work specific issues. Civil service rules and laws require that public employees are hired and promoted for merit and terminated or demoted for cause. Almost all local and regional governments in this country have civil service for their “uniformed” or “public safety” employees. This includes police officers and fire fighters. Many, but not all governmental jurisdictions also have civil service for their “civilian” or “non-uniformed” employees.

Most governments that provide civil service protections have a Civil Service Board or Commission. Their role is to ensure that personnel practices are fair and lawful. Some act as the human resources function for the jurisdiction, others focus on selection processes, while others monitor and review personnel practices. Almost all Civil Service Boards and Commissions have appointed and/or elected commissioners.

The City of Seattle established civil service for non-uniformed or civilian employees by an amendment to the City’s charter in 1979. The Seattle Civil Service Commission was also established under this charter amendment. The Commission has three members, one elected by the City’s civil service employees, one appointed by the Mayor and one appointed by the Seattle City Council. The Seattle Civil Service Commission is impartial and primarily conducts quasi-judicial hearings related to appeals of disciplinary actions and violations of personnel rules or laws. Per the Seattle City Charter:

ARTICLE XVI, Personnel System and Civil Service, Sec. 3. CIVIL SERVICE

“All City employees shall be members of the civil service except elected officers, persons holding appointive offices established by this Charter, assistant City Attorneys, heads of departments and members of boards and commissions created by this Charter or by ordinance. Additional positions may be exempted by ordinance approved by a two-thirds vote of the City Council.”

ARTICLE XVI, Personnel System and Civil Service, Sec. 5. CIVIL SERVICE COMMISSION

- *There shall be an independent three-member Civil Service Commission to hear appeals involving the administration of the personnel system.*
- *The Commission may submit recommendations concerning the personnel system as it deems appropriate, to the Mayor and the City Council.*
- *The members of the Civil Service Commission shall serve staggered three-year terms. One member shall be selected by the Mayor, one by the City Council, and one member shall be elected by the civil service employees; all members shall be removed only for cause by their selecting authority.*

WHAT IS CIVIL SERVICE? By Definition (1) “The entire body of those employed in the civil administration of a country at a local or national level. Military and elected officials are technically excluded from the term.”¹ (2) “A civil servant or public servant is a civilian career public sector employee working for a government department or agency.”²

WHY IS THERE CIVIL SERVICE? Civil service was created to ensure that governments could secure competent employees by establishing hiring rules and providing job protections to individuals who accepted government jobs. Prior to civil service public sector employment was at the whim of politicians and the political environment. Government jobs were filled by cronyism and patronage systems. These systems were prevalent in this country between 1800 and 1900 and enabled elected officials to appoint friends and political supporters to public jobs without consideration of their qualifications or performance. Civil service was implemented in response.

Under civil service a competitive process is required for hiring and a merit system for promotions. And employees can only be fired or demoted for cause. Civil Service Boards or Commissions provide oversight of selection processes and decisions to ensure that they are competitive and fair. They also hear appeals related to disciplinary actions and alleged violations of personnel rules. Most civil service employees may file an appeal regarding a hiring process, suspension, demotion or termination. Some may appeal alleged violations of other personnel rules, laws and policies. Civil Service Boards and Commissions have legal authority to rule on these issues and may also overrule a personnel action if it is determined that an employee’s rights were violated.

WHAT RIGHTS (PROTECTIONS) DOES CIVIL SERVICE PROVIDE? Civil Service ensures that employees are competitively hired and promoted based on merit. It also provides other “protections” to employees after they have been hired. Once an employee completes a probationary period, the employee becomes a member of civil service and gains protections that apply to specific personnel actions. An employee who is a member of civil service (a “regular” or “permanent” employee³) may only be suspended, demoted, or discharged for “just cause.”⁴ The employee is no longer “at will”⁵.

After completing a probationary period, most City of Seattle employees become members of civil service, including employees who are represented by a union. If a Civil Service employee feels there was not cause for a suspension, demotion or termination, the employee has the right to appeal the action with the Civil Service Commission. City of Seattle civil service employees also have the right to appeal alleged violations of personnel rules, laws and policies. Represented employee may appeal through their union or the Civil Service Commission.

¹ www.12-12-12.org/bookappi.htm

² Wikipedia

³ Civil Service does not apply to probationary or temporary employees. It only applies to “regular” or “permanent” employees. In the City of Seattle, this generally means a person who has completed a one year probationary period.

⁴ “Just cause” is a common legal standard used in labor law to determine the reasonableness of disciplinary actions (demotions, suspensions, terminations).

⁵ “At will” employees may be terminated for any or no reason. However, employers may not fire employees for a discriminatory or unlawful reason.

THE SEATTLE CIVIL SERVICE COMMISSION

The Seattle Civil Service Commission is a three member, impartial, quasi-judicial body. Commissioners serve staggered three-year terms. Each year one Commissioner's term expires and a new Commissioner is appointed, elected, has a term renewed or is reappointed. An Executive Director and an Administrative Staff Assistant support the Commission and manage the daily operations of the Commission's office.

THE COMMISSION HAS THREE PRIMARY DUTIES:

- To timely review employee appeals regarding the administration of the City's personnel system. This includes appeals involving disciplinary actions, including suspensions, demotions and terminations, as well as alleged violations of the personnel rules and laws.
- To provide timely and valuable review and input on personnel rules, policies and legislation.
- To ensure that the City's personnel system is administered in a fair and effective manner.

THE COMMISSION RESPONSIBILITIES ARE SPELLED OUT IN CITY, STATE AND FEDERAL LAW AND INCLUDE:

- Conducting fair, impartial and timely hearings on employee appeals. Employees who are members of the civil service may appeal personnel actions such as demotions, suspensions and terminations, or alleged violations of the City's Personnel Ordinance and its related rules, policies and guidelines.
- Rendering decisions on employee appeals related to personnel actions and decisions. The Commission may also issue remedial orders on disciplinary actions and personnel decisions. It also has the power and authority to reinstate employees and introduce legislation for lost wages and benefits, if needed.
- Monitoring the administration of the City's personnel system. The Commission reviews and may provide comment and feedback on proposed personnel ordinances, rules, policies and guidelines. The Commission may also hold public hearings to solicit input on personnel policies and practices.
- Submitting recommendations and proposing legislation concerning the administration of the personnel system to the Mayor and the City Council.
- Conducting investigations and issuing findings regarding complaints that the Mayor or other elected official, or a member of their immediate staff has influenced a City hiring. By law, the Commission is responsible for investigating any complaint that an elected official initiated a recommendation regarding a candidate for City employment, or has used inappropriate pressure to effect the hiring of a candidate for City employment.

WHAT TYPES OF ISSUES MAY BE BROUGHT TO THE COMMISSION?

The Commission hears appeals related to disciplinary actions and the interpretation and application of personnel rules, policies and procedures. Appeals of disciplinary actions include:

- Suspensions
- Demotions
- Discharges

Appeals involving alleged violations of personnel rules, policies and procedures, include:

- Classification and/or Compensation
- Reclassification and other Job Reassignments
- Selection Process/Hiring/Promotions
- Employee Evaluation Process
- Political Patronage or Influence in the Hiring Process
- Alleged violations of Personnel Laws, Rules, Policies and Procedures

The Commission does not hear appeals related to

- Salary or job title determinations
- Disciplinary actions resulting in reprimand letters
- Written statements or assessments in performance reviews
- Discrimination or other equal employment opportunity issues
- Disciplinary actions against temporary or probationary employees

Employees are required to exhaust their departments' internal grievance process before they file an appeal with the Civil Service Commission. After the internal grievance process has been exhausted and the employee receives a determination letter from the Department Head that states the final personnel action or decision, the employee may then file an appeal with the Commission.

City of Seattle employees filing appeals are encouraged to resolve the issue of their appeal using the City's Alternative Dispute Resolution program (ADR). This process is not quasi-judicial and encourages discussion and mutual agreements in order to resolve the issue. Most appeals must be filed within twenty days of the personnel action or decision. If an employee wants to pursue ADR, an appeal must be filed and the Commission holds the appeal in abeyance until the ADR process is complete. If the issue is not resolved through ADR the employee can continue with the CSC appeal process. About ten percent (10%) or two Commission appeals per year are resolved through ADR.

The Commission's decision on an appeal may affirm, modify or dismiss a personnel action. The Commission's final decision on the issue of an appeal is also the City's final decision. Final decisions from the Commission must be timely appealed in the Superior Court of the State of Washington for King County.

2009 AND 2010 WORK OVERVIEW



APPEALS AND HEARINGS- The Commission's primary responsibility is to hear employee appeals involving suspensions, demotions, terminations and alleged violations of the City's Personnel rules and ordinances. The Commission itself may hear an appeal or the Commission may delegate the hearing of an appeal to a Hearing Officer employed by the Commission or the Office of the City's Hearing Examiner.

If the Commission delegates an appeal, one Commissioner is assigned to review the decision in advance of the full Commission's consideration. The full Commission reviews and discusses the final decision in an open meeting, then votes to modify, reject or affirm the presiding officer's decision. All final decision must be affirmed by a majority of the Commissioners (2/3).

- In 2009, fifteen (15) appeals were filed with the Commission. Two (2) appeals were carried over from 2008, and one (1) appeal carried over from 2007⁶. Two (2) appeals remained pending in Superior Court.

Fourteen (14) appeals were dismissed. Four (4) appeals were resolved⁷ and dismissed by Decision. Eight (8) were dismissed (Appellant withdrawal, lack of jurisdiction, Settlement Agreements, or not timely filed) Two (2) appeals were closed or dismissed from Superior Court. Eight (8) appeals were carried over into 2010.

The Commission heard five (5) appeals and delegated five (5) appeals to the Office of the Hearing Examiner: five (5) were heard by the Commission's Hearing Officers.

- In 2010, fifteen (15) appeals were filed with the Commission. This includes eight (8) appeals filed in and carried over from 2009,

Seven (7) appeals were resolved and dismissed by decision and affirmation of the Commission, one (1) was dismissed (lack of jurisdiction) Four (4) appeals were withdrawn. Three (3) appeals were forwarded to the Personnel Department (classification, jurisdiction or Internal Grievance Process) eight (8) appeals carried over into 2011.

Three (3) appeals were assigned to the Commission's Hearing Officers. One (1) appeal was delegated to the Office of the Hearing Examiner.

- In 2009 the Commission issued three (3) decisions: two (2) decisions involved violations of

⁶ Appeal was in "pending" status until appellant exhausted excess vacation hours carried over to December 31, 2008, or any vacation hour's appellant accrued between February 2, 2007 and September 4, 2007, and any other excess vacation hours accrued from September 5, 2007, to December 31, 2007. Commission issued a dismissal order 1/13/09.

⁷ Parties complied with 2007 appeal carry-over that was in "pending status."

Personnel Law, Rules and Policies regarding Progressive Discipline, one (1) decision was issued related to suspension and one (1) decision involved a discharge.

- In 2010 the Commission issued Seven (7) decisions. Two (2) decisions involved violations of the City Charter, Ordinance, and Personnel Rules. Two (2) were related to the Reclassification process and Bumping rights. Two (2) were related to Suspension and One (1) related to termination.
- Once a decision is issued, the Commission's records of an appeal are public. The Commission's case status reports for 2009 and 2010 provide summary details on all appeals before the Commission during those years. The case status reports for 2009 and 2010 are included at the end of this report.

In addition, complete copies of all commission decisions are available for review. Hard copies along with the case folders may be viewed, by appointment in the Commission's office and the Commission's website on the City's Public Access Network includes links to most decisions issued by the Commission: <http://www.seattle.gov/csc/>.

The Commission dismisses all appeals upon closure. The Commission will dismiss an appeal without a hearing by request of the Appellant (withdrawal or settlement), for jurisdictional issues and for timeliness. The Commission will also dismiss an appeal after they have reviewed, voted, approved and or modified the Presiding Officer's findings and decision.

- In 2009, twelve (12) appeals were dismissed: One (1) appeal was dismissed upon request of the Appellant. Three (3) appeals were dismissed after the parties agreed to a settlement. One (1) was dismissed after parties attended Alternative Dispute Resolution and three (3) appeals were dismissed for jurisdictional issues. Four (4) appeals were dismissed after findings and decisions were issued.
- In 2010, Fifteen (15) appeals were dismissed: One (1) appeal was dismissed upon request of the Appellant. Three (3) appeals were dismissed after parties agreed to a settlement. Three (3) appeals were dismissed and forwarded to Personnel. One (1) appeal was dismissed for jurisdictional issues. Seven (7) appeals were dismissed after findings and decisions were issued.

Within ten (10) days of an issuance of the Presiding Officer's final decision. Any party may file a petition for review with the Commission of all or any part of the decision.

- In 2009 the Commission considered two (2) Petition's for Review.
- In 2010 the Commission considered four (4) Petition's for Review.

The Commission is ultimately responsible for all decisions issued under its name. A Commission decision is also the City's final decision on the issue of the appeal. If an Appellant wishes to appeal a final decision, the Appellant must file such action with the Superior Court of King County. Commission decisions also influence the outcome of later appeals that come before the Commission and may affect personnel policies and practices.

CIVIL SERVICE DESIGNATIONS-Another function of the Commission is to monitor the City's designation of positions from non-exempt to exempt from civil service. Departments submit request for exemptions to the City's Personnel Director for positions they feel the appointing authority needs discretion to terminate immediately without cause, because of the nature of the work performed. The Personnel Department reviews the request and position and makes a determination for exemption. Proposed civil service position exemptions are then submitted to the Seattle City Council for approval via quarterly salary ordinances.

DISCIPLINARY ACTIONS REPORTED CITY-WIDE-By law the Commission is to receive notices of all disciplinary actions taken by City departments-particularly those actions that affect regular or civil service employees. The Commission tracks these notices and bases its statistics on these documents. This includes notices sent to regular or civil service employees related to terminations, suspensions and demotions.

The Commission does not receive notices of letters of reprimand or other written notices of disciplinary actions that are not related to a suspension, termination or demotion. Some departments also elect to not send notices of disciplinary actions that affect probationary employees, since the Commission technically does not have jurisdiction over any actions taken on these employees. However, about 10% of the Commission's appeals are from employees challenging their probationary status and although a probationary employee cannot appeal a discharge the employee may appeal violations of personnel rules and laws.

In 2009, one hundred sixty-nine (169) disciplinary actions were reported to the City's Personnel Department and forty-seven (47) actions were reported to the Civil Service Commission for a reporting rate of about 61%. The City has approximately 10,079 regular employees, The Commission received eleven (11) appeals related to discharge, suspension or demotion, four (4) appeals received by the Commission were issues related to classification or progressive discipline.

In 2010, one hundred thirty (130) disciplinary actions were reported to the City's Personnel Department and thirty three (33) actions were reported to the Civil Service Commission. 49% of City employees committed an offense that resulted in discharge, suspension or demotion and six (6) appeals were filed with the Commission. The Commission received its majority of appeals (10) related to classification and/or lay-off/abrogation of positions.

Appendix

2009 Annual Report-Disciplinary Actions and CSC Appeals Summary

CURRENT DEPT NAME	NUMBER OF SUSPENSIONS/TERMINATIONS/DEMOTIONS REPORTED TO CITY PERSONNEL
City Employees Retirement Syst	1
City Light	19
Department of Planning & Dev	14
Dept of Executive Admin	2
Dept of Finance & Admn Svc	6
Fire Department	6
Housing	3
Human Services	6
Information Technology Dept	2
Intergovernmental Relations	0
Law Department	0
Legislative-City Council	1
Municipal Court	4
Neighborhoods Department	2
Office for Civil Rights	0
Parks Department	22
Personnel Department	4
Police Department	9
Seattle Center	4
Seattle Dept of Transportation	24
Seattle Public Utilities	40
GRAND TOTAL	169

2010 Annual Report-Disciplinary Actions and CSC Appeals Summary

CURRENT DEPT NAME	NUMBER OF SUSPENSIONS/TERMINATIONS/DEMOTIONS REPORTED TO CITY PERSONNEL
City Employees Retirement Syst	0
City Light	23
Department of Planning & Dev	23
Dept of Executive Admin	1
Dept of Finance & Admin Svc	7
Fire Department	3
Housing	1
Human Services	4
Information Technology Dept	2
Intergovernmental Relations	1
Law Department	2
Legislative-City Council	0
Municipal Court	1
Neighborhoods Department	0
Office for Civil Rights	0
Parks Department	12
Personnel Department	1
Police Department	5
Seattle Center	4
Seattle Dept of Transportation	10
Seattle Public Utilities	30
GRAND TOTAL	130

2009-2010 Annual Report-Disciplinary Letters Summary

Department	2009 Disciplinary Actions Reported to Personnel	2009 Disciplinary Actions Reported to CSC	Percent (%) Letters Received by CSC	2010 Disciplinary Actions Reported to Personnel	2010 Disciplinary Actions Reported to CSC	Percent (%) Letters Received by CSC
City Employees Retirement	1	-	-	-	-	-
City Light	19	8	43	23	8	35
Dept. Planning & Dev	14	-	-	23	-	-
Executive Admin	2	2	100	1	-	-
Finance & Admin Svc	6	-	-	7	-	-
Fire Dept.	6	-	-	3	-	-
Fleets	-	1	-	-	2	-
Housing	3	1	33	1	-	-
Human Services	6	-	-	4	-	-
Information Technology	2	2	100	2	-	-
Intergovernmental Relations	-	-	-	1	-	-
Law Dept.	-	-	-	2	-	-
Legislative-City Council	1	-	-	-	-	-
Municipal Court	4	-	-	1	-	-
Neighborhoods Dept.	2	-	-	-	-	-
Office for Civil Rights	-	-	-	-	-	-
Parks Dept.	22	3	13	12	4	33
Personnel Dept.	4	-	-	1	-	-
Police				5		
Sea Ctr				4		
SPU	-	14	-	30	19	63

Transportation	-	2	-	10	-	-
Total:	169	33	20%	130	33	25%

Note: In 2009 One Hundred Sixty-Nine (169) disciplinary actions were reported to the City's Personnel Department and the Commission received 33 letters. Based on these number 20% of the disciplinary actions involving Civil Service employees were reported to Personnel and to the Commission. Twenty Two (22) actions involved probationary employees. In 2010 One Hundred Thirty (130) disciplinary actions were reported to the City's Personnel Department and the Commission received thirty three (33) letters. Three (3) actions involved probationary employees. Based on these numbers 25% of the disciplinary actions involving Civil Service employees were reported to Personnel and to the Commission.